Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20036

In the Matter of	
Amendment of Parts 2 and 90 of the Commission's Rules to Provide for the Use of 200 Channels Outside the Designated Filing Areas in the 896-901 MHz and the 935-940 MHz Bands Allotted to the Specialized Mobile Radio Pool	PR Docket No. 89-553
Implementation of Section 309(j) of the Communications Act - Competitive Bidding	PP Docket No. 93-253
Implementation of Sections 3(n) and 322 of the Communications Act	GN Docket No. 93-252

To: The Commission

REPLY COMMENTS OF CELSMER

CelSMeR, by its attorneys, hereby replies to some of the comments submitted by other commenters in the above-captioned proceeding respecting the notice of proposed rule making portion of the Second Report and Order and Second Further Notice of Proposed Rule Making, FCC 95-159, released April 17, 1995 ("Second Report and Order and Further Notice").

CelSMeR generally supports the comments of the United States Small Business Administration ("USSBA"), the Small Common Carrier Coalition ("SCCC") and the National Telephone Cooperative Association ("NTCA") that the $3 million gross revenue standard established by the Commission for defining a "small business" is too narrow.[1] While the initial capital outlay to initiate a 900 MHz SMR facility may not be as high as for a PCS facility, it is still significant, especially for a small business. Indeed, it can cost anywhere from $200,000 to $750,000 to construct and place into operation a single ten-channel 900 MHz facility. See Comments of CelSMeR at 4; Comments of the Chief Counsel for Advocacy of the USSBA at 7-8. In order to comply with licensing and construction requirements, a winning bidder for a 900 MHz MTA license will necessarily have to construct several 900 MHz facilities within the MTA. Such a capital outlay is quite significant for a small business.

CelSMeR agrees with the USSBA and the NTCA that the better standard by which to define a small business is a $15 million gross revenue standard. A $15 million standard would also meet the requirements for small rural telephone companies. See Comments of the SCCC at 5-6.[2] Moreover, as noted by NTCA, raising the threshold to $15 million will attract small entities that can meaningfully compete at auction *and* comply with licensing and construction requirements.

CelSMeR disagrees with the comments in favor of a ten percent bidding credit for small businesses. Such a bidding credit is too low to have a beneficial effect on small businesses competing at auction. As noted by the USSBA in its comments, the Commission

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[1] Likewise, for the reasons discussed herein and in CelSMeR's Comments, CelSMeR generally disagrees with the comments of Geotek Communications, Inc. ("Geotek"), Personal Communications Industry Association ("PCIA"), Motorola, Inc. ("Motorola") and AMTA in support of the Commission's proposed $3 million gross revenue threshold.

[2] CelSMeR disagrees with the SCCC's proposal for a $40 million threshold. Such a threshold is too high and would not benefit truly small businesses.

must either give small businesses a higher bidding credit or create entrepreneurs' blocks. CelSMeR submits that a higher bidding credit is the better alternative, given the number of available channel blocks and the existence of incumbents in the MTA. A higher bidding credit in combination with the reduced down payments and installments payments will afford small businesses a meaningful ability to compete at auction against larger companies. CelSMeR also agrees with the comments of RAM Mobile Data USA Limited Partnership ("RAM")[3] that the Commission should not give bidding credits to non-incumbent small businesses bidding on incumbent blocks. As advocated by Pro Tec Mobile Communications, Inc. ("Pro Tec") in its comments, incumbent licensees, especially those who have expended considerable time and resources in developing wide-area 900 MHz SMR systems, should be accorded some preferential treatment over non-incumbents bidding on incumbent blocks.[4] CelSMeR also disagrees with the proposal of American Mobile Telecommunications Association, Inc. to limit bidding credits to those blocks in each MTA on which there are no incumbents. Such a limit would put small business incumbents at a distinct disadvantage vis-a-vis all nonincumbents (small and large businesses) bidding on the incumbent blocks.

Finally, CelSMer disagrees with the comments of the National Association of Black Owned Broadcasters ("NABOB") and the Minority Business Enterprise Legal Defense and Education Fund, Inc. ("MBELDEF") in favor of special provisions and enhancements for minority owned businesses. Indeed, entrance into the 900 MHz SMR service is not as cost

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[3] _See_ Comments of RAM at 2-3.

[4] CelSMeR concurs with the idea presented by Pro Tec that there is an inherent inequity it the notion that incumbents that have established wide-area systems within an MTA, at great expense, should have to participate in an auction just to be able to expand its system and provide service to the rest of the MTA.

prohibitive as with cellular, PCS or other radio services and therefore special enhancements for minority owned businesses in not warranted. The combination of a lower gross revenue threshold for small businesses, bidding credits, decreased down payments and installment payments proposed for small businesses provide adequate incentive and promote economic opportunities for minority owned businesses to participate in the 900 MHz service. As MBELDEF notes in its comments, the primary root of the problem for minority businesses is inadequate access to capital and the Commission's proposals, with some modifications, will address this problem.[5]

Respectfully submitted,

CELSMER

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June 12, 1995

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[5] Notably the Commission states in the Second Report and Order and Further Notice that the definition of small business specifically includes women/minority owned businesses, which addresses one of MBELDEF's concerns.